for that finding of fact by the Federal Court which the trial judge had refused to make. Miss Pappa's failure to pay the purchase price in full and punctually, even if proved beyond reasonable doubt, could not in law amount to fraud or entitle the unpaid vendor to defeat the registered proprietor's title under section 340(2)(a).

Their Lordships will advise His Majesty the Yang di-Pertuan Agong that this appeal should be dismissed with costs.

Appeal dismissed.

Solicitors: *Graham Page & Co.; Philip Conway Thomas & Co.*

SINGAPORE REPORTS

THE GREAT EASTERN LIFE ASSURANCE CO. LTD. v. GOH AH KOW t/a SINGAPORE DRY CLEANERS & ANOR.

[C.A. (Wee Chong Jin C.J., Sinnathuray & Chua JJ.) May 6, 1980]
[Singapore — Civil Appeal No. 53 of 1979]

Landlord and Tenant — Rent-controlled premises — Claim for possession — Whether defendants were licensees or tenants — Control of Rent Act (Cap. 266), s. 27(a).

This appeal arose from a claim brought by the plaintiffs/appellants in the District Court against the first, second and third defendants for possession of a rent-controlled premises at No. 204 Orchard Road. The said premises were let to the first defendant sometime during the Japanese occupation.

The plaintiffs claimed possession against the first defendant under section 27(a) of the Control of Rent Act (Cap. 266) on the ground that he was not in occupation of the premises and against the second and third defendants on the ground that they were unlawfully in occupation. The first defendant consented to judgment. The trial then proceeded against the second and third defendants.

The facts revealed that in 1945, the second defendant had approached the wife of the first defendant, who then held a tenancy of the said premises, and asked to be allowed to take over the tenancy of the premises. This was agreed to. The first defendant then moved out of the premises and retained a connection with it in that the rent was payable to him and he would tender this to the landlords. The third defendant had come on to the premises in 1959 after he had married the second defendant's daughter. The first defendant did not object to his coming on the premises.

The learned District Judge held that the plaintiffs had failed to determine the contractual tenancy of the first defendant. The learned District judge dismissed the plaintiffs' claim on the ground that the plaintiffs had not proved that the second and third defendants were unlawfully in occupation of the premises as they were in occupation of the premises with the leave and licence of the first defendant, and accordingly were not trespassers. The plaintiffs appealed to the High Court. The appellate Judge dismissed the appeal. (See [1980] 1 M.L.J. 277).

Held, dismissing the appeal: (1) the first defendant had sub-let the whole of the premises to the second defendant and that the first defendant was not prohibited under his contractual tenancy from sub-letting without the prior consent of the plaintiffs as his landlord;

(2) the relationship between the first defendant and the second defendant was that of landlord and tenant and not that of licensor and licensee;

(3) the second defendant had a tenancy of the premises from the date she entered into possession in 1945 and was a protected tenant by virtue of the Control of Rent Act (Cap. 266) when proceedings for possession were commenced against her.

CIVIL APPEAL.

Kirpal Singh for the appellants.

Tommy Neo for the respondent.

Cur. Adv. Vult.

Chua J. (delivering the judgment of the Court): At the end of the hearing of the appeal we dismissed the appeal and said we would give our reasons later. We do so now.

This appeal arises from a claim brought by the plaintiffs (appellants) in the District Court against the first, second and third defendants (the second and third defendants are the first and second respondents)

for possession of premises known as No. 204, Orchard Road (the premises).

It was not in dispute that the premises are controlled premises and that they were let to the first defendant sometime during the Japanese occupation.

The plaintiffs claimed possession against the first defendant under section 27(a) of the Control of Rent Act (Cap. 266) (the Act) on the ground that he was not in occupation of the premises and against the second and third defendants on the ground that they were unlawfully in occupation.

The first defendant consented to judgment on September 10, 1977. The trial then proceeded against the second and third defendants on the basis as claimed in the writ, i.e. that they were unlawfully in occupation. The second and third defendants denied that they were unlawfully in occupation.

The facts found by the learned District Judge on the evidence were these. Sometime in 1945, the second defendant, who was then a widow having lost her husband during the second World War, had approached the wife of the first defendant, who then held a tenancy of two premises at Orchard Road viz. the premises and another at No. 110-112 Orchard Road, and asked to be allowed to take over the tenancy of the premises. The wife of the first defendant agreed to this and the first defendant did not himself object to it. The first defendant then moved out of the premises and retained a connection with it in that the second defendant would hand the rent payable to him and he would tender this to the landlords. This went on for some period of time when the first defendant asked the second defendant to pay the rents direct to the landlords. The third defendant had come on to the premises in 1959 after he had married the second defendant's daughter. The first defendant was aware of the status of the third defendant and knew of his coming on the premises and had not objected to it. The learned District Judge also found that the plaintiffs had failed to determine the contractual tenancy of the first defendant before the present proceedings commenced.

On these facts the learned District Judge dismissed the plaintiffs' claim on the ground that the plaintiffs had not proved that the second and third defendants were unlawfully in occupation of the premises as they were in occupation of the premises with the leave and licence of the first defendant, and accordingly were not trespassers. It is this ruling that has given rise to the appeal.

On appeal by the plaintiffs to the High Court, the appellate judge dismissed the appeal. It appears from the judgment that he was not persuaded to interfere with the findings of the trial judge. Before us it was submitted on behalf of the plaintiffs that the finding of the trial judge that the second and third defendants were in occupation with the leave and licence of the first defendant amounted to a finding that they were in occupation as mere licensees and that, as licensees, they were not protected by the provisions of the Act.

On this submission it is necessary to consider the evidence before the trial court. It was common ground at the trial that the second defendant took possession of the premises from the first defendant in the year 1945. There was no evidence that the first defendant's tenancy was subject to a prohibition against assignment or sub-letting. The evidence of the second defendant, which was not challenged, was that when she went into possession, she knew the first defendant was the "chief tenant" and she rented the premises from him and paid him rent until 1968. From 1968 she paid the rent to the rent collector of the plaintiffs because the first defendant had asked her to pay the rent direct to the landlord as he was leaving the country. The rent receipts issued by the plaintiffs from 1968 onwards were made out in the name of the first defendant.

In our opinion, on these undisputed facts the only inference to be drawn was that the first defendant had sub-let the whole of the premises to the second defendant and that the first defendant was not prohibited under his contractual tenancy from sub-letting without the prior consent of the plaintiffs as his landlord. Accordingly, we were of the opinion that the relationship between the first defendant and the second defendant was that of landlord and tenant and not that of licensor and licensee. It follows that in law the second defendant had a tenancy of the premises from the date she entered into possession in 1945 and was a protected tenant by virtue of the Act when proceedings for possession were commenced against her.

For these reasons we dismissed the appeal.

Appeal dismissed.

Solicitors: *Kirpal Singh & Co.; Tan Kim Seng & Neo.*

WONG PENG KIN & ORS. v. MELODIES LTD.

[C.A. (Wee Chong Jin C.J., D'Cotta & Rajah JJ.) September 1, 1980]

[Singapore — Civil Appeal No. 91 of 1979]

Land Law — Lease for 999,999 years — Building and common property management — Lessors required by authorities to repair retaining wall and divert sewer — Appeal against decision allowing lessors to claim contribution in payment from lessees — Local Government Integration Act (Cap. 210), s. 2(2) — Municipal (Private Sewage Purification Plants and Chemical Closet) By-Law 1951, by-law 14 — Buildings & Common Property (Management) Act, 1973, s. 4(1).

Property Management — Lease for 999,999 years — Lessors required by authorities to repair retaining wall and divert sewer — Whether lessors could claim contribution in payment from lessees — Environmental Public Health Act, 1968, s. 51(1) — Local Government Integration Act (Cap. 210), s. 2(2) — Municipal (Private Sewage Purification Plants and Chemical Closet) By-Law 1951, by-law 14 — Buildings and Common Property (Maintenance & Management) Act, 1973, s. 4(1).

In Suit No. 3386 of 1976, Chua J. (see [1980] 1 M.L.J. 272) allowed the plaintiffs' claim for payment of maintenance fees and increase in rental. This was an appeal by the defendants.

The facts of the case are briefly as follows. The plaintiffs in this case were owners of the land and premises